



NUNEZ & FLEISCHER

Jacob H. Nunez, Esq.
303 sw 6th Street
Fort Lauderdale, Florida 33315
Tel: 954-336-3006
Email: Jacob@nunezandfleischer.com

October 3, 2024

VIA ELECTRONIC SUBMITTAL (CSS)

The Chairperson and Members of the
City of Miami Beach Planning Board
City of Miami Beach Planning Department
1700 Convention Center Drive,
2nd Floor,
Miami Beach, Florida 33139

RE: *Letter of Intent for a Modification of a Previously Approved Conditional Use Permit Under Planning Board File No. 1746 to Reflect a New Operator In Connection with the Parking Garage at the Property Located at 101 Ocean Drive, Miami Beach, Florida 33139 (the “Property”).*

Dear Chairperson and Members of the Planning Board,

This firm represents **UNITY PARKING LLC**, a Florida limited liability company (the “Applicant”), in connection with the subsequent land development and zoning matters set forth herein relating to the Property.

Please accept this Letter of Intent in connection with Applicant’s Application, for a minor modification to the existing Modified Conditional Use Permit (the “CUP”), to reflect Unity Parking LLC as the operator in connection with the CUP for the Property. A copy of the recorded CUP is set forth as **Exhibit A** hereto, which was issued to the original applicant and former operator, Double Park, LLC.

As a result of the change in operator under the CUP, the Applicant, as the new operator, is required to appear before the Planning Board to affirm its understanding of the conditions and requirements of the CUP. Applicant also requests that staff consider the addition of the following language relating to subsequent operators at the Property, which is consistent with recent conditional use permit approvals:

“any change of operator or fifty percent (50%) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by the City, to the City of Miami Beach Planning Department, transferring approval of the new operator or owner acknowledging acceptance of all conditions established herein prior to the issuance of new Certificate of Use/Business Tax Receipt.”

The Applicant is not requesting any other changes to the CUP. In accordance with the foregoing, the Applicant agrees to comply with all terms and conditions of the CUP. To further substantiate Applicant’s request, and for further reference in connection with Applicant’s Application, please find attached as **Exhibit B** hereto the Under-Utilized Parking Renewal Letter from Applicant, delineating the uses, square footage, hours of operation, site plan of the parking garage, and parking spaces associated with the Property, which is identical to previous approvals of under-utilized parking.

Accordingly, the Applicant requests a minor modification of the CUP to reflect Unity Parking LLC as operator. Applicant is not requesting any additional modifications of this Application. We respectfully request your recommendation of approval of this request.

Sincerely,



Jacob H. Nunez, Esq.

EXHIBIT

A



CFN 2007R0275290
OR Bk 25456 Pgs 4918 - 49201 (3pgs)
RECORDED 03/16/2007 12:52:21
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

**PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA**

PROPERTY: 101 Ocean Drive
Bentley Beach Hotel – Parking Garage

FILE NO. 1746

IN RE: The application by Double Park requesting an extension of time of a previously approved Conditional Use approval for the use of underutilized parking spaces on a 24-hour basis. The underutilized spaces will be used to accommodate patrons of nearby restaurants.

LEGAL

DESCRIPTION: Lot 7, less the west 15 feet thereof, and Lot 8, less the west 15 feet thereof, in Block 113 of Ocean Beach Addition No. 4, according to the Plat thereof as recorded in Plat Book 3, at Page 151 of the Public Records of Miami-Dade County, Florida, together with that land lying east of the easterly boundary line of Lots 7 and 8 in block 113 of Ocean Beach Addition No. 4 and west of the Erosion Control Line and south of the easterly prolongation of the north line of Lot 7, and north of the easterly prolongation of the south line of Lot 8, in Block 113 of Ocean Beach Addition No. 4, according to the Plat thereof, as recorded in Plat Book 3 at Page 151 of the Public Records of Miami-Dade County, Florida.

MEETING DATE: January 23, 2007

MODIFIED CONDITIONAL USE PERMIT

The applicant, Double Park, LLC, filed an application with the Planning Director to modify a previously approved Conditional Use Permit to use of underutilized parking spaces on a 24-hour basis to accommodate patrons of nearby restaurants. Notice of the request for Conditional Use was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the R-PS4, Residential High Density Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendation, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction on this Conditional Use Permit. If deemed necessary, at the request of the Planning Director or a Board member, the applicant shall present a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of the progress report in a non-substantive manner, to impose additional conditions to address possible problems, and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. The applicant shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed during the hours of operation. This shall include policing all trash from the lot not less than twice daily. The sounding of car alarms, automobile horns, playing of radios or any kind of audio system (including by the valet attendants) and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns, shall be posted on the site so they are plainly visible by, and legible to, users of the facility (see attached examples).
3. Periodic evaluation of the under-utilized spaces shall be conducted by staff as new uses come on line, and the use of the underutilized spaces shall be adjusted depending on the hours of operation.
4. All parking spaces associated this under-utilized parking approval have been identified on site with a yellow "C" and corresponding space number, physically painted on the pavement. These are the only spaces that can be used to store vehicles.
5. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a modified Occupational License for this parking facility.
6. The under-utilized parking spaces in this facility shall be operated as a valet-only; no self-parking shall be permitted.
7. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
8. This Modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant.
9. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use permit.

Dated this 1st day of MARCH, 2007.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Jorge G. Gomez

Jorge G. Gomez, Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 1st day of MARCH, 2007, by Jorge G. Gomez, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



Notary: Charles A. Taft

Print Name: CHARLES A. TAPT

Notary Public, State of Florida

My Commission Expires:

Commission Number:

Approved As To Form:

Legal Department (Filed 2-28-07)

F:\PLAN\PLB\2005\11-22-05\1746 - Bentley Beach Hotel 101 Ocean Dr CU.doc



**PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA**

CFN 2005R1280405
OR Bk 24039 Pgs 1603 - 1605; (3pgs)
RECORDED 12/12/2005 13:36:23
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

PROPERTY: 101 Ocean Drive
Bentley Beach Hotel – Parking Garage

FILE NO. 1746

IN RE: The application by Double Park, LLC requesting Conditional Use approval for the use of underutilized parking spaces on a 24-hour basis. The underutilized spaces will be used to accommodate patrons of nearby restaurants.

LEGAL

DESCRIPTION: Lot 7, less the west 15 feet thereof, and Lot 8, less the west 15 feet thereof, in Block 113 of Ocean Beach Addition No. 4, according to the Plat thereof as recorded in Plat Book 3, at Page 151 of the Public Records of Miami-Dade County, Florida, together with that land lying east of the easterly boundary line of Lots 7 and 8 in block 113 of Ocean Beach Addition No. 4 and west of the Erosion Control Line and south of the easterly prolongation of the north line of Lot 7, and north of the easterly prolongation of the south line of Lot 8, in Block 113 of Ocean Beach Addition No. 4, according to the Plat thereof, as recorded in Plat Book 3 at Page 151 of the Public Records of Miami-Dade County, Florida.

MEETING DATE: November 22, 2005

CONDITIONAL USE PERMIT

The applicant, Double Park, LLC, filed an application with the Planning Director for a Conditional Use Permit to use of underutilized parking spaces on a 24-hour basis to accommodate patrons of nearby restaurants. Notice of the request for Conditional Use was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the R-PS4, Residential High Density Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

(3)

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendation, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction on this Conditional Use Permit. If deemed necessary, at the request of the Planning Director or a Board member, the applicant shall present a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of the progress report in a non-substantive manner, to impose additional conditions to address possible problems, and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is approved for a period of 6 months from the date of the public hearing – November 22, 2005. If so desired, the applicant may request an extension of the time period from the Board with sufficient time prior to the expiration of the 6 months. This Conditional Use approval may not be used until the Planning Director and the City Attorney's Office are satisfied that the applicant has exclusive rights to use the spaces as proposed.
3. The applicant shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed during the hours of operation. This shall include policing all trash from the lot not less than twice daily. The sounding of car alarms, automobile horns, playing of radios or any kind of audio system (including by the valet attendants) and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns, shall be posted on the site so they are plainly visible by, and legible to, users of the facility (see attached examples).
4. Periodic evaluation of the under-utilized spaces shall be conducted as new uses come on line, and the use of the underutilized spaces is adjusted depending on the hours of operation.
5. All parking spaces associated this under-utilized parking approval have been identified on site with a yellow "C" and corresponding space number, physically painted on the pavement. These are the only spaces that can be used to store vehicles.
6. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a modified Occupational License for this parking facility.
6. The under-utilized parking spaces in this facility shall be operated as a valet-only; no self-parking shall be permitted.
7. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
8. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified Certificate of Use, Certificate of Occupancy or Occupational License, whichever occurs first; compliance with the aforesaid conditions shall be a prerequisite to obtaining a Certificate of Occupancy.

9. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use permit.

Dated this 7th day of DECEMBER, 2005.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
Jorge G. Gomez, Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 7th day of DECEMBER, 2005, by Jorge G. Gomez, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[NOTARIAL SEAL]

Notary: [Signature]
Print Name: CHARLES A. TAIT
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
Legal Department (Held 12-6-05)

F:\PLAN\PLB\2005\11-22-05\1746 - Bentley Beach Hotel 101 Ocean Dr CU.doc

EXHIBIT

B



UNDER-UTILIZED PARKING RENEWAL LETTER

Bentley Beach Condominium

(Location of under-utilized Parking Lot/ Garage)

Please accept this letter as authorization for UNITY PARKING LLC
to _____
Name of Parking Lot Management Company
renew their underutilized parking license located at the above referenced address. Below is a detailed list
of our tenants, their business hours and their square footage.

| <u>Space</u> (suite #) | <u>Type</u> (retail/ office/ restaurant) | <u>Company</u> | <u>Sq.Ft./</u> <u>#seats</u> | <u>Hours</u> <u>of operation</u> |
|---------------------------|---|----------------------------------|---------------------------------|-------------------------------------|
| Comm1A | Restaurant | Prime Italian | 201 seats | 12pm-12am |
| Comm1B | Hair Salon & Spa | Rocco Donna Hair Salon | 1,090 sq.ft | 9am-6pm |
| Comm1C | Hotel Front Desk | Hilton Bentley Miami/South Beach | 550 sq.ft | 24 hrs |
| Comm1D | Restaurant | Noah Restaurant | 200 seats | 7:30am-11pm |
| P1 Level | Condominium Hotel | Hilton Bentley Miami/South Beach | 109 units | 24 hrs |
| P1 Level | Parking Garage | Unity Parking LLC | 68 spaces | 24 hrs |
| P2 Level | Parking Garage | Unity Parking LLC | 76 spaces | 24 hrs |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Total seats | -----> | | 401 | |
| Total sq.ft | -----> | | 1640 | |

Sincerely,

UNITY PARKING LLC

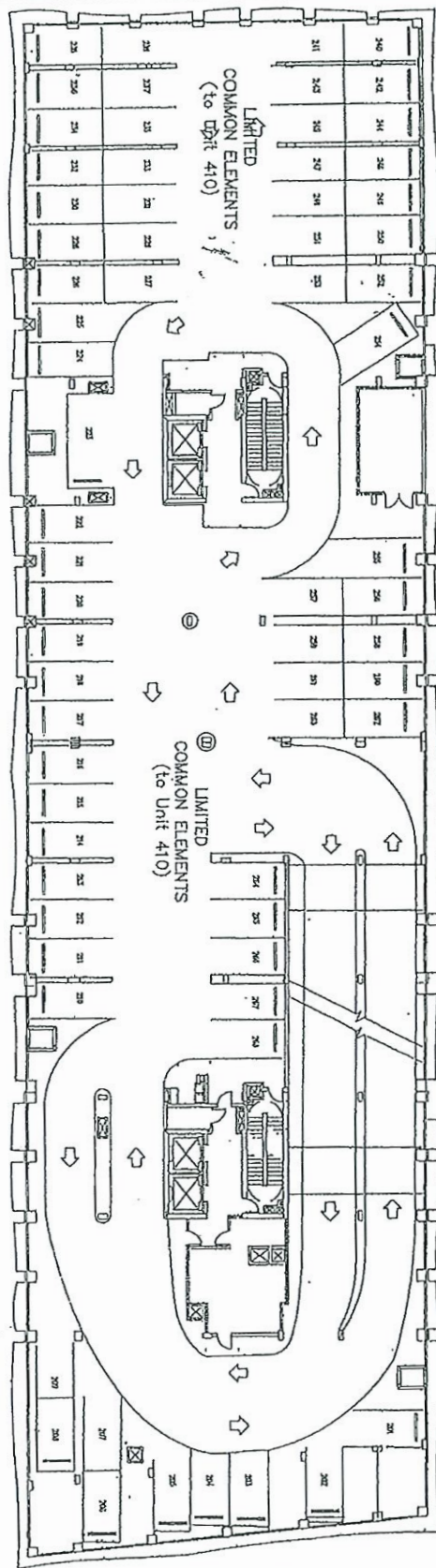
Name: _____

Signature: _____

Date: _____

NOTE:

Underutilized, Provisional and Temporary Parking Lots MUST be approved by the Planning & Zoning Department, prior to Finance department's approval and issuance of a Business Tax Receipt (BTR).



Second Floor -- Parking
BENTLEY BEACH CONDOMINIUM
 MIAMI BEACH FLORIDA



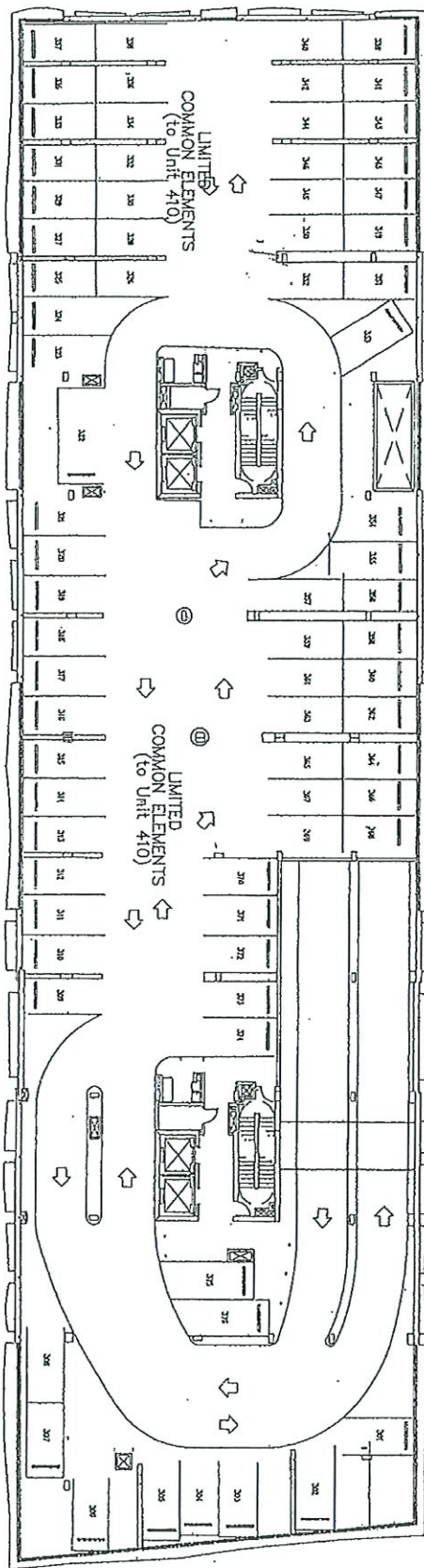
Prepared By:
 E.R. Brownell and Associates, Inc.
 Engineers, Surveyors, Planners
 3152 Coral Way, Miami, FL 33145
 Ph. (305) 446-3511



Exhibit "A"
 Page 6 of 37
 Scale 1" = 30'



Prepared For:
 The Bentley Beach
 101 Ocean Drive
 Miami Beach, Florida
 On July 11, 2003



Third Floor — Parking
BENTLEY BEACH CONDOMINIUM

MIAMI BEACH FLORIDA

Prepared By:
R. Brownell and Associates, Inc.
Engineers, Surveyors, Planners
52 Coral Way, Miami, FL 33145
Ph. (305) 446-3511



Exhibit "A"
Page 7 of 37
Scale 1" = 30'



Prepared For:
The Bentley Beach
101 Ocean Drive
Miami Beach, Florida
On July 11, 2003



